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## REMARKS

The application has been amended to correct the cited informalities, to distinguish the claimed invention over the cited prior art, and to place the application into a *prima facie* condition for allowance. Substantial care has been taken to avoid the introduction of any new subject matter into the application as a result of the foregoing amendments.

Claims 4 - 8, 10 - 18 and 20 - 21 have been rejected under 35 U.S.C. 112, second paragraph, for purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner has stated that: 1) "the flexible membrane" in claim 4 has no antecedent basis; and 2) that "Kevlar", being a registered trademark, must be removed from claim 13. In complete response thereto, Applicant has: 1) replaced "the flexible membrane" with -- the seal membrane -- in claim 4, being the element recited previously in the same claim; and 2) replaced "Kevlar" in claim 13 with its technical name, poly-paraphenylene terephthalamide. In view of the foregoing, Applicant respectfully submits that the Examiner's bases for rejection of claims 4 - 8, 10 - 18 and 20 - 21 should be deemed overcome. Reconsideration and withdrawal of the rejections of claims 4 - 8, 10 - 18 and 20 - 21, under 35 U.S.C. 112, second paragraph, are respectfully solicited.

Claims 1, 3 - 5, 7, 8, 16 - 19 and 21 have been rejected under 35 USC 102(b) as being anticipated by *Dreyer et al.*, US 4,474,205. Claims 2, 6, and 14 - 15 have been rejected under 35 USC 103(a) as being unpatentable over *Dreyer et al.* in view of *Clark et al.*, US 3,178,779. Claims 10 - 11 have been rejected under 35 USC 103(a) as being unpatentable over *Dreyer et al.* in view of Machine Design, "Fluoroelastomer extends pump applications". Claims 12 - 13 have been rejected under 35 USC 103(a) as being unpatentable over *Dreyer et al.* in view of *Ryder, Jr.*, US 4,381,985. Claim 20 has been rejected under 35 USC 103(a) as being unpatentable over *Dreyer et al.* in view of *Luffel et al.*, US 6,622,366. Claim 22 has been rejected under 35 USC 103(a) as being unpatentable over *Dreyer et al.* in view of *Chatufale*, US 6,041,804. Applicant respectfully traverses the Examiner's substantive bases for rejection of the claims.

Applicant further respectfully submits that it appears there has been a miscommunication, or misunderstanding with respect to Applicant's most recently filed Amendment and Communication, in which *Dreyer et al.* was also addressed.

The Examiner has acknowledged, in section 11 of the presently pending office action, that "col. 4, lines 3 - 21 of Dreyer et al. clearly state that the sealing ring (27) has to be inflated in order to seal against the blade (16)." (Emphasis added). Applicant agrees completely. It appears, however, that Applicant may not have effectively articulated the fact that in Applicant's invention, the seal membrane is not inflated in order for it to bear against the damper blade. Rather, it bears against the damper blade at ambient pressure, without inflation. Indeed, as set forth in detail hereinbelow, in Applicant's invention, pressure - negative (not positive) - is utilized to create a negative pressure differential within the seal membrane, to enable it to at least partially collapse to, in turn, remove the seal.

Applicant's invention of amended claim 1 comprises a seal cartridge for an industrial damper having a damper blade movable between open and closed positions. The seal cartridge comprises a flange having a U-shaped cross-section, said U-shaped flange having an inner leg and an outer leg, said U-shaped flange extending completely around an opening of the industrial damper so as to form a closed loop; and a flexible seal membrane attached to said inner and outer legs of said U-shaped flange to form an air chamber. The seal membrane will bear against the damper blade, when the damper blade is in its closed position, until such time as a negative air pressure differential between the air chamber and the ambient atmosphere, respectively, is imposed across the seal membrane, to cause the seal membrane to at least partially collapse. (emphasis added)

Support for the amendments to claim 1, particularly with respect to the underlined limitation, is found in the specification at paragraph [0038]. This configuration has the advantage that in the event of a failure of the air compression system, or a leak in the seal membrane, the seal membrane remains in its closed, sealed position, against the damper blade, when the blade is in its closed position, thus

preventing passage of combustion byproducts past the closed damper blade. Independent claim 4 includes the same limitation.

Therefore, as amended, Applicant respectfully submits that independent claims 1 and 4 patentably distinguish over the cited *Dreyer et al.* reference, inasmuch as there is no teaching or suggestion in the *Dreyer et al.* reference of any membrane configuration or function, other than the conventional function, that a positive air pressure differential, between the air chamber and the ambient atmosphere, respectively, is required in order to prompt and/or maintain the membrane into its closed, sealing position. Applicant respectfully directs the Examiner's attention to col. 4, lines 3 - 21, of *Dreyer et al.*, wherein it is described how "re-inflation" of the sealing ring requires an application of 5 - 10 psi, obviously gauge, not absolute -- whereas in Applicant's invention, all that is required is removal of the negative air pressure differential. Furthermore, in the *Dreyer et al.* reference, a positive air pressure differential, between the interior of the sealing ring, and the ambient atmosphere, is *required* because the ring is preferably located on the high pressure side of the damper blade (col. 4, line 14). In view of the foregoing, Applicant respectfully submits and reiterates that not only does the *Dreyer et al.* reference completely fail to teach or suggest Applicant's invention of amended claims 1 and 4, but also that it may not be combined with any other reference to do so, as that would be against the express teachings of the reference, which not only fails to teach the removal of a negative pressure, but also expressly teaches the application of a positive air pressure differential to re-inflate the sealing ring.

Applicant accordingly respectfully submits that the Examiner's substantive basis for rejection of independent claims 1 and 4 should be deemed overcome, and reconsideration and withdrawal of the rejections of claims 1 and 4 are respectfully solicited.

Inasmuch as dependent claims 2, 3, 5 - 8, 1 - 18 and 20 - 21 merely serve to further define the subject matter of amended independent claims 1 and 4, which themselves should be deemed patentable, Applicant respectfully submits that dependent claims 2, 3, 5 - 8, 1 - 18 and 20 - 21 likewise should be deemed to patentably distinguish over the cited prior art. Reconsideration and withdrawal of the

rejection of dependent claims 2, 3, 5 - 8, 1 - 18 and 20 - 21, and allowance thereof are respectfully solicited.

Applicant submits that the application, as a whole, is in a *prima facie* condition for allowance at this time, and reconsideration and allowance of the application, are accordingly, respectfully solicited.

Applicant respectfully requests the opportunity to discuss the invention and the *Dreyer et al.* reference with the examiner, in a telephonic interview, prior to the issuance of any further office actions, should the examiner continue to be of the opinion that the *Dreyer et al.* reference is still relevant to a rejection under either 35 U.S.C. §102(b) or 35 U.S.C. §103(a) -- and to obviate the need for consideration of appellate procedure to address the clear distinctions between the prior art and Applicant's invention.

Should anything further be required, a telephone call to the undersigned, at (312) 456-8400, is respectfully invited.

Respectfully submitted,

GREENBERG TRAURIG, LLP


Dated: November 9, 2006

  
Richard D. Harris

One of Attorneys for Applicant

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this AMENDMENT AND COMMUNICATION AFTER FINAL ACTION is being deposited with the United States Postal Service as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted to the USPTO, at fax number 571-273-8300, on November 9, 2006.

  
Douglas B. Teaney